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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/632,977   | 08/04/2003  | Scott W. Allan       | PAT 52194-2         | 2980             |
| 26123  | 7590        | 08/22/2006           | EXAMINER            |                  |
| BORDEN LADNER GERVAIS LLP<br>WORLD EXCHANGE PLAZA<br>100 QUEEN STREET SUITE 1100<br>OTTAWA, ON K1P 1J9<br>CANADA |             |                      | ABDELWAHED, ALI F   |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3722                |                  |
| DATE MAILED: 08/22/2006  |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/632,977             | ALLAN ET AL.        |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Ali Abdelwahed         | 3722                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 24 July 2006.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 13,15,21 and 24-31 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,12,14,16-18,20 and 22 is/are rejected.
- 7) Claim(s) 2-11,19 and 23 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 12/4/03, 4/2/04.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Group I in the reply filed on July 24, 2006 is acknowledged.

Claims 24-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 24, 2006. Furthermore, claims 13, 15, and 21 are also drawn to a nonelected species and therefore are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as well.

### ***Priority***

If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 119(e), a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.

If the instant application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35

U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its

inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "44" has been used to designate both the hole in the housing 12 and the aligner in sleeve 24; reference character "222" has been used to designate both the central aperture in inclined plate 220 and the protuberances of inclined plate 220. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because reference numeral "71" in figure 5A should be replace with -72--; reference numeral "10" in figure 7A should be replace with -80--;

reference numeral “260” in figure 40 should be replaced with –206--; and reference numeral “202” in figure 40 should be deleted. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The abstract of the disclosure is objected to because it contains legal phraseology such as: “means” and “said”. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The disclosure is objected to because of the following informalities:

It is suggested that in:

Paragraph [0030], line 7, delete "106".

Paragraph [0040], line 2, delete "1" and insert -8--.

Paragraph [0045], line 6, delete "16" and insert -106--.

Paragraph [0047], line 10, delete "211" and insert -212--.

Paragraph [0047], line 10, delete "212" and insert -211--.

The reference character "44" has been used to designate both the hole in the housing 12 and the aligner in sleeve 24; and reference character "222" has been used to designate both the central aperture in inclined plate 220 and the protuberances of inclined plate 220.

Appropriate correction is required.

***Claim Objections***

Claims 1, 5-9, 11, 18, and 23 are objected to because of the following informalities:

It is suggested that in:

Claim 1, line 3, delete "said" and insert --the--.

Claims 5 and 6, line 1, after "...wherein..." delete "a".

Claims 7 and 8, line 3, delete "inner" and insert --internal--.

Claim 9, line 3, before "...shank's diameter" delete "said" and insert --the--.

Claim 11, line 3, delete "ball moves" and insert --balls move--.

Claim 18, line 3, before "...axis..." delete "said" and insert --the--.

Claim 18, line 7, before "...90 degree..." delete "said" and insert --the--.

Claim 23, line 1, delete "1" and insert --3--.

Claim 23, line 1, delete "and" and insert --an--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 16, 17, 20, and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitations regarding "at least two torsion springs wherein at least one torsion spring is oriented in one rotational direction, and at least one other torsion spring is oriented in the opposite rotational direction, whereby the shank is secured in either direction of rotation of the chuck"; and "the internal diameter of the torsion springs has been altered by mechanical means selected from the group consisting of grinding, machining, honing and other metal-removing means"; and "a collapsible collet inside the torsion spring, for distributing shank-retention forces along a length of the shank", have not been described in the originally filed specification in any way.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,826,888 to Weaver et al.

Weaver et al. discloses a chuck (10) for retaining the cylindrical shank (82) of a tool bit or accessory inserted in a central channel (48) at a distal end of the chuck (see fig. 3), comprising at least one torsion spring (56) mounted axially within a housing (12) and having an inner dimension (57) and shape comparable to the shank's outer

dimension and shape (see fig. 3), and mechanical means (42) for winding and unwinding the torsion spring to respectively grip or release the shank (see fig. 4, and column 5, lines 63-66).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver et al. in view of U.S. Patent No. 6,059,493 to Kirn et al.

Weaver et al. discloses the claimed invention except for a plate positioned in the chuck and having a central axial aperture which is slightly larger than a cross-section of the shank when the plate is at 90 degrees to the axis, but which corresponds in cross-section to the shank when the plate is angled away from 90 degrees, the plate being pivotable such that extraction of the shank increases the angling away and thereby tightens the plate on the shank to prevent extraction, further comprising means for straightening the plate towards the 90 degree position, to permit extraction of the shank. However, Kirn et al. teaches a chuck (20) comprising a plate (50) positioned in the chuck and having a central axial aperture (31) which is slightly larger than a cross-section of the shank (17) when the plate is at 90 degrees to the axis, but which corresponds in cross-section to the shank when the plate is angled away from 90

degrees (see fig. 4, and column 4, lines 13-23), the plate being pivotable such that extraction of the shank increases the angling away and thereby tightens the plate on the shank to prevent extraction (see fig. 4), further comprising means (36) for straightening the plate towards the 90 degree position, to permit extraction of the shank (see column 4, lines 31-36). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chuck of Weaver et al., in view of Kirn et al., such that it would provide the chuck of Weaver et al. with the concept of the aforementioned limitations for the purpose of enhancing the connection between the shank of the tool bit and the chuck.

### ***Allowable Subject Matter***

Claims 2-11, 19, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (571) 272-4417. The examiner can normally be reached Monday through Friday from 10:00 A.M. to 6:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the examiner or the examiner's supervisor.

AA  
08/08/2006

*Monica S. Carter*  
MONICA CARTER  
SUPERVISORY PATENT EXAMINER